

REMARKS

Basis for the Traversal

The restriction requirement is submitted to be improper because the subcombination S. (Wherein the shear ring is a plurality of pieces welded together) is not "independent and distinct" from the combination of R. (Wherein the shear ring is of a one-piece construction).

1. In making the restriction requirement, Examiner has asserted that the species S. and R. are "distinct". This assertion is made without any basis and cannot be supported. (i.) Examiner has not shown that the two species are distinct based on a difference of class and subclass in the Manual of Classification. (ii.) Nor has Examiner cited any authorities showing that the so-called subgroups have achieved a different status in the art of Nuclear Fuel Canisters. (iii.) Also, Examiner has not asserted that a different field of search would be required for species S. and R.

Where the classification is the same and the field of search is the same and there is no clear indication of separate future classification and field of search, no reasons exist for dividing among related inventions. (MPEP 808.02).

2. Examiner's restriction requirement fails to comply with 37 C.F.R. 1.142. A restriction requirement is proper only when two or more "independent and distinct" inventions are claimed. Examiner makes no assertion that the so-called subgroup R. is independent of the so-called subgroup S. Examiner has asserted only that they are distinct. So-called subgroup R. and S. are not, in fact, independent. For a restriction requirement to be proper, the so-

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called two inventions must be both independent and distinct. Examiner has failed to make out a *prima facie* case for a restriction requirement.

For these reasons, withdrawal of the Restriction Requirement is respectfully requested.

CONCLUSION

Examination of claims 1-6 and 10-14 is respectfully requested.

No additional fee is required.

Respectfully submitted,



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